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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eighteenth session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 29 April 1998, at 3 p.m.

Chairperson: Mr. CEAUSU
(Vice-Chairperson)

later: Mr. ALSTON

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GE.98-15906 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Nigeria (E/1990/5/Add.31, E/C.12/Q/NIGERIA/1)

1. At the invitation of the Chairperson, the delegation of Nigeria took places at the Committee table.

2. The CHAIRPERSON welcomed the delegation of Nigeria and expressed the hope that its dialogue with the Committee would be a constructive one. He drew attention to a revised version of Nigeria's initial report (E/1990/5/Add.31), which the Minister of Foreign Affairs of Nigeria had submitted in January 1998 and which, for the present, existed only in English. There were no written replies to the list of issues (E/C.12/Q/NIGERIA/1) which had been issued on 23 May 1997. Replying to a question by Mr. WIMER, he said that no written replies were expected but it was hoped that the delegation would provide oral answers. In accordance with the usual practice of the Committee, he proposed to invite the head of the Nigerian delegation to introduce the report and would then go through the list of issues chapter by chapter.

3. Mr. OSAH (Nigeria) expressed his Government's apologies for the late submission of the revised version of the report and its regret that, owing to administrative difficulties connected with obtaining entry visas, the delegation did not include any experts specially sent from Abuja. The revised report he was presenting covered all aspects of the Government's efforts to implement the provisions of the Covenant and highlighted the financial, social and cultural constraints which impeded the full realization of those efforts. If some of the measures taken had fallen short of the required international standards, it was not for lack of political will. The Government hoped that, with time and encouragement from the international community, some of those problems would be overcome. Before introducing specific sections of the report, he gave a brief summary of Nigeria's history before and since independence.

4. Mr. Alston took the Chair.

5. The CHAIRPERSON reminded the head of the Nigerian delegation that proceedings within the Committee were of an interactive nature and that the Chairperson had the right to interrupt any speaker who seemed to be departing from the subject matter under consideration.

6. Mr. TEXIER, recalling that the Committee had only three half-days in which to consider the report of Nigeria, wondered whether a historical exposé, however interesting, was really to the point.

7. Mr. OSAH (Nigeria) said he realized that time was of the essence, but believed that the country's constitutional development was relevant to human rights issues. Nigeria and the Nigerians had a deeply rooted juridical system

founded on law and equity. Nigeria's experiences as a nation, which had helped it to forge a constitutional framework that guaranteed respect for the rights and freedoms of the 200 or more ethnic minority groups in the country, were its strength and the motive for its actions on human rights issues at both national and international level.

8. While the report might not answer the Committee's questions item by item, it did provide as much information as possible, including statistical data, on most of the issues raised. It would be seen that measures had been taken to ensure that various groups had equal opportunities for employment in government service and other sectors. The Government was doing its best to provide adequate housing for the whole population. It was not true, as some NGOs claimed, that people were being denied the right to food as a result of certain projects put in place by the Government. As for education, the budget appropriation had indeed been considered rather low in the past, but since the previous year its proportion of the budget as a whole had been greatly increased so that it now actually exceeded the level recommended by UNESCO. In conclusion, he stressed his Government's high regard for the work of the Committee and his delegation's readiness to respond to any question that members might wish to raise.

Sections I and II of the list of issues

9. The CHAIRPERSON invited the Committee to take up sections I and II (questions 1 to 12) of the list of issues (E/C.12/Q/NIGERIA/1).

10. Mr. OSAH (Nigeria) said that information on the country's population (question 1) was to be found in the original report (E/1990/5/Add.31) and that answers to most of the other questions under consideration were provided in the revised version. Referring specifically to question 4, he said that any Nigerian citizen whose rights had been violated could bring the matter before the courts. Referring to question 5, he said that a number of seminars on human rights had been organized for judges and magistrates in the current year or were scheduled for 1999.

11. Mr. PILLAY said that he wished to ask two questions. First, was it not true to say that, since Nigeria was plagued by political instability, poor management, galloping inflation and rampant corruption, the majority of Nigerians did not enjoy their economic, social and cultural rights? Second, did the rule of law apply in Nigeria? The report stated that the country's Constitution was modelled on the United States, yet it appeared that the military Federal Government's decrees superseded the powers of all courts and even prevailed over the application of the Covenant. The representative of Nigeria had mentioned human rights seminars being organized for magistrates and judges, yet material available to the Committee indicated the existence of a financial crisis in the judiciary. The salaries of judges, magistrates and court officers were said to be extremely low, the number of court rooms insufficient and their condition poor. It was therefore no wonder that bribery was reported to be common among the judiciary. The delegation's comments on those poiints would be appreciated.

12. Mr. GRISSA expressed regret at the absence of a government representative involved in drafting the report, which he could not agree was detailed as stated. It was unacceptable for the Government to refer the Committee, as in paragraph 21 of the revised version of the report, to the periodic reports it had produced for other treaty bodies for information in respect of articles 1-5 of the Covenant. The human rights committees were independent of each other and guarded their prerogative to receive their own country reports, which they did not pass on to other bodies.

13. He had noted in paragraph 9 of the revised report that the increase in economic growth from 2 per cent to 3.3 per cent in 1966 had been outstripped by the 3.5 per cent growth in the population, indicating a steady decline in per capita income over the year. It was even more disturbing to read in paragraph 14 of the revised report that over 50 per cent of Nigerians were poor, and that the legal minimum wage was 250 naira per month, far below the 3,920 naira required for minimum subsistence. Even the minimum public sector pay of 1,250 naira per month was only one third of the sum required. If those figures were correct, the legal minimum wage was useless.

14. Mr. SADI expressed concern that in the absence of the experts the Nigerian delegation might be unable to provide the Committee with the necessary technical and statistical detail or adequate replies to the many complex issues to be addressed, thus adversely affecting the Committee's dialogue with the State party.

15. Mr. THAPALIA asked for information on the powers, function and jurisdiction of the National Human Rights Commission. Was it an autonomous body, able to monitor and investigate the human rights situation in the country in a truly independent manner? Was there any truth in the report that the Commission had no permanent office and no working telephone?

16. Mr. WIMER, referring specifically to question 12 of the list of issues, said that while Nigerian legislation did not create obstacles to women's rights, it was safe to assume that in practice those rights were eroded daily. He wondered, for example, what the Government was doing to abolish the widespread practice of female genital mutilation and whether it had made any progress in other areas such as domestic violence, polygamy and the sale of women. What difficulties were being encountered by the Government in its attempts to change those traditional practices?

17. Mr. OSAH (Nigeria) said that while the delegation could not claim to be in a position to respond extempore to all the issues which might be raised, it could answer all general questions, and would do its best to meet the Committee's concerns. Replies to any highly technical questions could be transmitted to the secretariat later on.

18. In relation to such issues as the rule of law and women's rights, it should be borne in mind that Nigeria was a plural society and was not the only country to practise polygamy. There was no government policy that deliberately discriminated against women.

19. The National Human Rights Commission, which consisted of eminent Nigerians of proven integrity, such as first-class journalists and legal practitioners belonging to the Nigerian Bar Association, and whose Chairman was a retired Supreme Court judge, had been established by the Government in 1995 in response to a request by the General Assembly. Its independence had been noted in the report of the Special Rapporteur (E/CN.4/1998/62) of the United Nations Commission on Human Rights, to which it had applied for technical support. Its function was to investigate human rights violations by individuals and groups, to report to the Government and to advise it accordingly. It had an office and telephone and could be contacted. It had visited prisons, received reports and complaints, carried out investigations and reported to the Government. Its independence was not affected by the fact that it had government funding.

20. Mr. AHMED observed that while the Special Rapporteur of the Commission on Human Rights had welcomed the establishment of the National Human Rights Commission, he had also stated in subparagraph 109 (u) of his report that it should be strengthened by expansion of its powers and jurisdiction to cover all cases of violations of human rights and that security of tenure should be granted to the Chairman and members of the Commission.

21. The Special Rapporteur had also mentioned the case of the Ogoni people and their protestations against the degradation of their land by the authorities in conjunction with the oil companies, stating that their complaints had not received sufficient attention.

22. Mr. OSAH (Nigeria) said that the National Human Rights Commission would have been unable to refer publicly to the defects which it had found if it had not been independent. So far, moreover, none of its members had been persecuted. The Government from time to time examined the Commission's reports and in due course an appropriate response would undoubtedly be forthcoming, bearing in mind that the Government respected the Chairman's views.

23. Mr. SADI asked whether the delegation could provide concrete examples of when and where the Commission had intervened, on what issues and with what consequences.

24. Mr. OSAH (Nigeria) replied that although he could not provide concrete information concerning the Commission's findings, since it reported to the Government, he could assure the Committee that it had sent its officers to investigate complaints and had reported accordingly.

25. With regard to the independence of the judiciary and the rule of law, the courts still met and handed down decisions on very difficult legal matters. The independence or impartiality of a judge had less to do with the environment in which he found himself than with his ability to respond effectively to the legal matters brought before him. Within recent years a number of cases on topical issues had come before the Nigerian courts: the Guardian newspaper, for example, had won its challenge in the courts against certain government decrees and a notable human rights activist had similarly obtained judgement in his favour.

26. The role and independence of the judiciary under military rule had also been emphasized in a paper presented by a retired judge of the Supreme Court to the World Jurists Association, in which it was reported that the courts had determined under section 6 of the Constitution that they had the right to pronounce themselves, regardless of the terms of the military decree which had suspended certain sections of the Constitution.

27. Mr. AHMED pointed out that on the question of the rule of law in Nigeria, the Special Rapporteur had also stated that there was extensive violation of basic human rights in the country despite changes made by the Government. He had further stated that the rule of law was absent, that the country was ruled by military decrees which ousted the jurisdiction of the established courts, and that there was arbitrary detention, inter alia. Several political prisoners were still in detention and court orders were not respected.

28. Furthermore, a Nigerian social and economic rights action centre based in Lagos had reported, with regard to the rule of law, that the country had been ruled by a military government for 29 out of its 38 years as an independent State. Affairs of State were conducted by means of military decrees handed down by the Provisional Ruling Council. Having suspended the Constitution, military decrees constituted supreme law and virtually every decree contained an ouster clause which removed the jurisdiction of the courts in matters related to the acts of the Federal Government and its agents. An ouster attached to a certain decree passed in 1993 stated that notwithstanding anything contained in the Constitution of the Federal Republic, the African Charter on Human and People's Rights or any other enactment, no proceedings should be initiated in any court for or on account of any act, matter or thing done or purported to be done in respect of that decree. The ousters consequently tied the hands of the judiciary.

29. Mr. OSAH (Nigeria) replied that the Court of Appeal had declared, with regard to the ouster clause relating to Decree No. 107 of 1993, that no decree could preclude the courts from hearing cases of violations of human rights under the African Charter on Human and People's Rights. It had thus upheld the independence of the judiciary under conditions that might otherwise have submerged its independence in a military climate.

30. The Nigerian press had also stated that that Appeal Court ruling contained some canonic pronouncements which could become reference material for litigation across the continent as more people became acquainted with the articles of the Charter.

31. Lastly, the Committee should bear in mind that the Special Rapporteur had prepared his report on the basis of information not verified by the Federal Government and had never visited Nigeria.

32. The CHAIRPERSON pointed out that the role of the Committee was to identify specific concerns, formulate questions as clearly as possible and request the Government to provide replies, which it had every opportunity to do. The Committee would base its judgements on all the information available to it, taking particular note of the views put forward by the Government.

33. Mr. GRISSA said that as Nigeria had provided it with a meagre report, the Committee would have to rely on its own sources of information. It was not enough for the State party to refer to reports sent to other committees or to quote court decisions. The Committee did not doubt the honesty of the Nigerian judges. It was, however, the responsibility of the executive to enforce judgements, which the Special Rapporteur had said it failed to do. The Committee did not know whether the decision cited by the delegation had been executed by the State, but it was well aware that matters which the Government did not wish to go before the courts were considered by specially constituted courts or tribunals set up under the decrees.

34. While appreciating the delegation's position, therefore, the Committee needed its help in understanding the true situation in Nigeria, which it was its job to establish.

Section III of the list of issues

35. The CHAIRPERSON said that the matter of the independence of the judiciary would seem to have been adequately covered. A pronouncement by the Court of Appeal of Nigeria to the effect that, in principle, the existence of a military Government did not oust the rule of law was not in itself inconsistent with a statement that much of the legislation adopted by that Government specifically ousted the jurisdiction of the courts. If there was nothing further to be added, he suggested that the Committee should move on to articles 2 and 3 of the Covenant.

Articles 1-5

36. Mr. GRISSA said that the Ogoni people living in the delta of the Niger river were suffering from pollution, which had resulted in loss of their land and means of livelihood and for which they had received no compensation. He asked what action was being taken by the Government in that connection.

37. The CHAIRPERSON said that the question seemed to be more closely related to articles 10 and 12 of the Covenant than to the general provisions of articles 1 to 5. They could perhaps best be dealt with under that heading. Articles 2 and 3 related particularly to discrimination.

38. Mr. AHMED said that, clearly, the Ogoni people were in fact being subjected to discrimination. They had been deprived of their rights and their land had been ravaged, not only by the oil companies but also by the Government.

39. Mr. SADI said that an element of discrimination seemed to be inescapable in countries that were multi-ethnic or multiracial. He asked what measures the Government of Nigeria had taken to promote reconciliation and harmony among the various ethnic groups, at the governmental level and also among the people.

40. Mr. OSAH (Nigeria) said that he did not think that discrimination was endemic in Nigeria. In any event, it was not government policy. The Constitution of Nigeria guaranteed all citizens equal opportunities and administrative provisions were in place to ensure that the guarantee was

respected. The current Administration had established a Committee on Reconciliation which was still at work, and a Federal Commission had been appointed to ensure that all Nigerians had equal opportunities in terms of employment. The Government had taken no deliberate measures against the Ogoni people, but rather steps to ensure that, as an oil-producing community, the Ogoni enjoyed their own fair share of the national wealth.

41. As far as pollution was concerned, the Shell-Nigeria Oil Company which operated in Ogoniland had taken special measures to address the issue. He could circulate to the Committee a report by Shell listing action taken to reduce the effects of pollution, as well as information on what the Government was doing to alleviate the problems of that oil-producing community. He noted that, although the Ogoni area had attracted world attention, it contained only 3 of Nigeria's more than 770 local government councils and produced only 1.2 per cent of the total Nigerian oil production.

42. Mr. KOUSNETZOV asked whether the Government of Nigeria intended to ratify ILO (International Labour Organization) Convention No. 111 on discrimination in employment and, if not, why not.

43. Mr. AHMED said that the report of the Special Rapporteur of the Commission on Human Rights referred specifically to failure by the Government to address the plight of the Ogoni people and to protect their human rights as recommended by the fact-finding mission of the Secretary-General.

44. Mr. OSAH (Nigeria) said, in response to the questions asked under articles 2 and 3, that his delegation would take up the matter of the ratification of ILO Convention No. 111 at a later time. On the issue of the Ogoni people, and the references to the report of the Special Rapporteur, he said that, because he had not been able to visit Nigeria, the Rapporteur's conclusion that human rights violations existed in that country was clearly faulty.

45. The CHAIRPERSON noted that the Nigerian delegation was to provide a response regarding ILO Convention No. 111 at a later date, although there was no indication when that would be. He also noted that the sources from which the Committee was obliged to take its information might well be mistaken. When a member put a question based on the report of the Special Rapporteur, however, its purpose was to be able to compare that information with a response by the Government to the substance of the question.

46. Mr. GRISSA said that the report of the Special Rapporteur was far from being the Committee's only reference. It was the Government's failure to provide adequate information which obliged the Committee to look for it elsewhere.

47. Mr. OSAH (Nigeria) said that between 1986 and 1993, when it had been compelled to stop production in Ogoniland, the Shell Oil Company had spent US$ 2 million there, which was 16 per cent of the total community budget for the Eastern Division of its operations and the second largest contribution to any ethnic group in that division. A successful community agricultural programme had been instituted, benefiting some 6,800 farmers. Other contributions had included water schemes, school buildings, a fully equipped

hospital, furniture for 17 schools and equipment for two health centres, and six kilometres of tarred roads. Of the 1,600 secondary school scholarships offered to oil-producing areas, 70 per cent had gone to Ogoniland. Since 1993, 80 per cent of the university scholarships provided had been awarded to Ogonis. The company's registered contractors included 85 Ogonis. Oil spills associated with production had been regularly cleaned up wherever they occurred.

48. The Federal Government for its part had set up a special Development Council in 1992 to cater for the needs of the oil-producing areas, including Ogoniland. Federal development projects in Ogoni had included the establishment of a petrochemical company, the National Fertilizer Company, the construction of a deep-sea port, a national labour college and a polytechnic. Federal ministerial appointments had been held by Ogonis as well as a number of State Government appointments. He reminded the Committee again that Ogoniland possessed three local government councils out of a total of more than 770 in Nigeria as a whole.

Articles 6-15

49. The CHAIRPERSON said that the Committee would draw its own conclusions at the appropriate time, on the basis of all the information available to it. He suggested that the Committee should move on to issues relating to specific rights recognized in articles 6-15 of the Covenant.

50. Mr. WIMER pointed out that his question regarding discrimination against women had not been answered.

51. The CHAIRPERSON said that it had been suggested that the question should be dealt with under article 10.

Article 6

52. Mr. TEXIER said that, as far as the reliability of the Committee's sources of information was concerned, the exchange of letters reproduced in the report of the Special Rapporteur clearly showed that it was the Government which had refused to allow him to visit Nigeria. Other instances of obstruction by the Government could be cited, including that recorded in the 1997 report of the ILO's Committee on Freedom of Association.

53. Turning to article 6, he said that the information provided in the initial report and in the supplementary report on the right to work was not satisfactory. What the Committee wanted was a picture of the labour situation in Nigeria, first from the legal point of view, regarding the degree to which the legislation provided for equal access to employment and for protection against arbitrary dismissal, and secondly regarding the real situation on the ground. There was no information in either report on the rate of unemployment or underemployment, or on the trend of either. According to an NGO report on the labour situation, employment was in sharp decline. Some 200,000 jobs had already vanished and there were plans for mass dismissals both in the State service and in the private sector. What provision was there in the 1990 Labour Act to protect against arbitrary dismissal?

54. In addition he would like information on the participation rate of women in employment, the number of women workers dismissed and their rate of unemployment as compared with that of men. More information was also needed in regard to child labour. It was estimated that there were some 12 million child workers in Nigeria, representing one-fifth of all the country's children and 17 per cent of the labour force. Lastly, he would like more information regarding the recent mass expulsion of Chadian migrant workers. If the Nigerian delegation was, understandably, unable to give a clear picture of the situation, the Committee would require additional written information.

55. Mr. OSAH (Nigeria) said that he hoped to be able to provide the detailed information requested, on unemployment statistics, expulsions and mass retrenchments, at the Committee's next meeting. In the meantime, he would only repeat that legal provisions protecting the right to work existed in the Labour Act of 1990. Some provisions of the Act had been tested in the courts and employers had been ordered to reinstate workers claiming to have been arbitrarily dismissed.

Article 7

56. Mr. CEASU said that the three paragraphs of the report dealing with article 7 contained only general statements, with no specific reference to the relevant legal provisions or any facts or data regarding the real situation in the field. The Committee had, however, received information from other sources about the Government's compliance with its obligations under article 7. For example, a 1996 report of an ILO Committee of Experts drew attention to article 17 of the Nigerian Constitution and to certain provisions of the National Minimum Wage Act of 1981. Those provisions excluded large sections of the labour force, such as part-time and piece workers, seasonal workers in agriculture, workers in establishments with fewer than 50 employees, and so on, from the scope of the Act and from compliance with the legal requirements regarding equal pay for equal work.

57. The Panafrican News Agency had reported in 1997 that Nigeria's decision to decentralize industrial bargaining meant that individual states were free to fix wages and salaries for their workers; under the previous arrangement, the Federal Government had determined those rates. A report prepared by the United States Department of State indicated that the 1974 Labour Decree was responsible for setting the minimum wage, which was reviewed on an ad hoc basis, that the most recent review, conducted in 1991, had raised the minimum wage from 250 naira, (approximately $2.90), to 450 naira (approximately $5.00), and that that sum was not sufficient to provide a decent living to a worker and family.

58. It also stated that there was no law prohibiting excessive compulsory overtime, that factory inspectorates of the Ministry of Employment and Labour neglected safety oversight of construction sites and other non-factory work sites, and that the Government had failed to act on ILO recommendations to update the moribund inspection and accident reporting programme. It would be useful to know how labour inspectorates operated in Nigeria, how frequently inspections were conducted, and what authority was held by a labour inspector. The Government should supply detailed recent statistics on the incidence of labour accidents in Nigeria.

59. The ILO Committee of Experts had stated that, since its ratification of Convention No. 100 twenty years earlier, the Nigerian Government had failed to furnish sufficient information on the basis of which its compliance with the principle of equal pay for equal work could be assessed. That Committee had also observed that, without further information, it could not accept statements that the Government was giving full effect to its provisions. It had offered technical assistance for the purpose of assembling the necessary information. Nigeria should provide detailed statistics and facts to demonstrate its compliance with the provisions of article 7.

60. Mr. GRISSA said that he wished to reiterate a comment he had made earlier. Nigeria depended heavily upon oil for the generation of gross national product and Government revenue. Since the drop in oil prices, the country had suffered from inflation, coupled with lower income growth. And yet, the official minimum wage paid far less than the sum required for subsistence. What, in fact, was the income status of the Nigerian people, and what measures had the Government taken to protect their purchasing power?

61. Mr. WIMER inquired what measures were being taken to combat the widespread wage and salary discrimination against women, and whether there existed a Government agency that monitored compliance with laws guaranteeing equal pay for equal work.

62. Mr. RIEDEL requested Nigeria to reply to question 22 on the list of issues: did that country intend to ratify ILO Convention No. 174 on the prevention of accidents in the workplace? The Government should also provide a detailed answer to question 23 concerning the minimum wage.

63. Mr. OSAH (Nigeria) said that the minimum wage was set at 250 naira, which in Nigeria constituted a significant sum. Like many countries throughout the world, Nigeria was experiencing economic difficulties, and the resources available to the Government had dwindled. The Government was not unaware of what was fair and reasonable under the circumstances, and had taken administrative measures, such as the establishment of the Family Support Programme. The Government was not, however, the only source of income, and persons who wished to generate additional income could do so. Programmes had been established to assist in the creation of small businesses and other income-producing projects.

64. Nigeria had no deliberate policy, and no rules or regulations which prohibited women from earning the same salaries and wages as men. In fact, women employed at all levels of Government received the same pay and benefits as their male counterparts. Again, the problem was related to financial constraints. The Nigerian civil service had grown too large, and had been reduced in order to provide a reasonable salary to its workers. That measure had of course been controversial, but the Government could use only those resources that were available to it. The Ministry of Labour would provide the requested statistics.

65. He would transmit the question concerning ILO Convention No. 174 to the relevant Ministry, which would explain why it had not yet been ratified. International instruments had implications, and a Government could not ratify a treaty whose provisions it was not in a position to fulfil. All other unanswered questions would be forwarded to the relevant Ministries.

66. The question had been raised why the Committee's Special Rapporteur had not been permitted to visit Nigeria. Unfortunately, at the time the requests had been made the Government had been occupied with other matters, and could not properly attend to a visitor. Nigeria was undergoing a period of transition, and until matters had been sorted out it would indeed be difficult to deal satisfactorily with the Committee's requests.

67. The CHAIRPERSON asked whether the delegation would be able to obtain answers from the ministries before the next meeting. If the necessary information did not arrive in time, the Committee could not take it into account in its assessment of the report.

68. Mr. OSAH (Nigeria) said that he would do his utmost to obtain all the requested information by the next meeting. Certain questions would have to be transmitted to the Ministry of Labour, and he was not in a position to specify by what date replies would be received.

Article 8

69. Mr. TEXIER said that the situation of trade union rights in Nigeria was disastrous, and failed absolutely to conform to the provisions of article 8. Government decrees of 1996 had granted to the Ministry of Labour the administrative prerogative to dissolve trade unions and had prohibited trade unions from forming affiliations with other unions without the consent of the Government. In violation of ILO Convention No. 87, concerning freedom of association and protection of the right to organize, the Government had in 1994 promulgated a decree which dissolved the executive councils of the Nigeria Labour Congress (NLC). Again that same year, after a strike had been called by the two main unions of oil workers, the National Union of Petroleum and Natural Gas Workers (NUPENG) and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), the Government had promulgated a decree dissolving their executive councils. Also in 1994, on the basis of the principle that all unions should be affiliated to one central union, the Government had reduced the number of unions affiliated to the Nigeria Labour Congress from 41 to 29, a manifest breach of the right to form pluralist trade unions. That decree also prohibited trade union employees from standing for election within the Nigeria Labour Congress or affiliated unions.

70. The Government of Nigeria could not retort that United Nations bodies and agencies had failed to alert them to such problems. The ILO Committee of Experts had noted, each year, that the Nigerian Government failed to respect its obligations under the terms of Convention No. 87. Human Rights Watch had recently reported that union activities continued to be restricted, particularly in the oil sector and on campuses, that NUPENG, PENGASSAN and NLC (to which all unions were compulsorily affiliated) continued to be controlled by government-appointed sole administrators, and that a new decree of 1997 had banned NLC and member unions from affiliating with the ILO. Indeed, many sources provided the same information, which he therefore considered reliable.

71. An additional concern needed raising: the General Secretary of NUPENG, Mr. Frank Kokori, and a labour activist, Mr. Dabibi, of PENGASSAN, had both been detained without trial since 1994.

72. The questions therefore arose why the Government had dissolved the executive councils of the Nigeria Labour Congress and the Academic Staff Union, detained unionists without trial, and prohibited Nigerian unions from affiliating with the International Confederation of Free Trade Unions (ICFTU). Why, furthermore, did the Government make no attempt to bring law and practice into conformity with the continual and repeated recommendations of ILO? Why had 22,000 workers been dismissed in 1997 by a military administrator after they had called a strike? Why, finally, did the Nigerian Government fail to respect article 8 of the Covenant?

73. Mr. OSAH (Nigeria) said that only the executive councils of NUPENG and PENGASSAN had been dissolved, not the unions themselves. ILO Convention No. 87 permitted Governments to obtain a court injunction to bring an end to a strike; that action therefore could not be considered an infringement of trade union rights. The trade union Act of Nigeria provided for the settlement of trade union disputes; under its terms, if trade union leaders chose not to register a dispute, the Government registered it for them. The two unions in question had struck without regard for the legal requirements. Instead of raising issues which concerned the welfare of their members, they had wished to discuss highly political matters: they had wanted to know who was detained and who was not detained, and had demanded the release of persons who were not trade union leaders. Nigerian legislation established which services were considered essential to the welfare of the nation, and those two unions constituted the heart and core of the oil industry. The action taken by the Government of Nigeria to stop their strike had ample basis in law.

74. Mr. RIEDEL requested the Nigerian Government to explain why Mr. Frank Kokori and Mr. Milton Dabibi had been detained without trial, and how their detentions related to the trade union matters under discussion.

75. Mr. OSAH (Nigeria) said that those two trade union executives had been detained because their actions constituted economic sabotage, which was prohibited under Nigerian law. They had not only violated the relevant Government regulations concerning the calling of strikes, but they had also exceeded the executive mandates of their unions.

76. Mr. RIEDEL said that the fundamental question was why Mr. Kokori and Mr. Dabibi had been detained for years without trial.

77. Mr. OSAH said that he would answer the question at the next meeting.

78. Mr. TEXIER said that, if he understood correctly, calling a strike within the oil industry was considered economic sabotage in Nigeria. If such was the case, Nigeria was egregiously violating article 8 of the Covenant.

The meeting rose at 6 p.m.